

Part 2 -- Remarks

This Amendment and Response is responsive to the office action mailed April 25, 2006. The accompanying petition and fee for a three month extension of time extends the time for response to October 25, 2006.

In the April 25, 2006 office action, previously-pending claim 65 was rejected under 35 USC 112, ¶1; previously pending claims 22, 24, 26, 27, 29-32, 35-37, 40-43 and 48-76 were rejected under 35 USC 112, ¶2 as allegedly indefinite for the reason of reciting a presumed effect or a desired arrangement; previously pending claims 22, 24, 26, 27, 29-32, 35-37, 40-43 and 48-76 were rejected under 35 USC 102(b) as anticipated by US patent 5,845,352 to Matsler, and as anticipated by US patent 5,617,595 to Landi, and as anticipated by US patent 3,503,649 to Johnson, and as anticipated by US patent 4,912,788 to Lonardo (four separate anticipation rejections); and previously pending claims 67 and 68 were rejected under 35 USC 103 as obvious from Matsler Landi, Johnson or Lonardo in view of US patent application 2005/0025956 to Bainbridge.

Reconsideration of these rejections is respectfully requested, as those previous rejections might apply to the new pending claims 77-99.

Declarations

Attached are Declarations of David Harding, Dana Polonsky and Thomas R. Hetzel. The information presented in these Declarations is referred to below in support of the applicants belief in the patentable nature of the new claims 77-99. Consideration of these Declarations is respectfully requested.

New Claims

The previously pending claims had been replaced by new claims 77-99. The subject matter from the previously pending claims has been incorporated in the new claims in the manner set forth. No new matter has been added.

Section 112, ¶1 Rejection

The antecedent basis for the recitation of previous claim 65 is found at page 13, lines 27-30. This originally-recited subject matter is continued in new claims 79 and 87.

Section 112, ¶2 Rejection

It is believed that the §112, ¶2 rejections of the previously pending claims are moot with respect to the new claims, because the new claims address and resolve those clarity issues in the manner set forth in the claims themselves. The new claims relate to a seating contour which supports a person in a seating position while offloading support pressure from the recited bony prominences and transferring support pressure to the recited areas of broad tissue mass. The new claims clearly describe both structural and functional interrelations with aspects of the human pelvic area anatomy, as is required for this type of invention. The claimed functional and structural interrelationships entitle these limitations to patentable weight when determining patentability. Consideration of these interrelationships with the human pelvic area anatomy demonstrates that the pending claims are patentable.

Obviousness Rejection

It is believed that the Bainbridge published patent application is not prior art relative to this application, and therefore cannot be used in a valid obviousness rejection for this application. The present application was filed on July 28, 2003. The Bainbridge patent application was filed on October 15, 2003, and was published on February 3, 2005.

Claims 84, 91 and 98 relate to subject matter which was the object of the previous obviousness rejection. For the reason that the Bainbridge patent application is not prior art, it would appear inappropriate to reject these claims on the previously asserted basis.

Patentability of the Pending Claims

None of Matsler, Landi, Johnson, and Lonardo anticipate the pending claims, either literally or inherently, for the reasons discussed separately with respect to each of the references, both below and as Mr. Hetzel has explained in his attached Declaration.

The Matsler reference describes the application of pressure from the air module to the ischial tuberosities in order to establish sufficient support pressure for supporting the user. The cushion itself is described as being too weak to do this without the

support pressure applied on the ischial tuberosities. In this regard, the Matsler reference is distinguishable from the present claims which require offloading of the support pressure from the ischial tuberosities. The support area of the air module contacts the ischial tuberosities in order to apply support pressure to them. In this regard, the Matsler reference is different from the claims which require the support area to be spaced away from the skin covering the ischial tuberosities. The Matsler reference is also capable of applying upward and forward support pressure on the lateral posterior buttocks, as is claimed. These distinguishing and non-anticipatory features are discussed more completely in paragraphs 15-18 of Mr. Hetzel's declaration.

Because the Matsler reference applies support pressure to the ischial tuberosities, and contacts the support area to the ischial tuberosities to do so, the Matsler reference can not inherently anticipate the pending claims because those pending claims which recite limitations that are opposite from the features which Matsler specifically calls for.

The non-anticipatory aspects of Matsler apply with respect to the pending independent claims 77, 85 and 93, as well as their dependent claims.

The Landi reference also describes supporting the entire pelvic area, not offloading pressure from the relief areas as is specifically recited in the claims. Applying support pressure to the ischial tuberosities and the greater trochanters is specifically described in the Landi reference. These features are directly contrary and non-anticipatory with respect to the claimed features of offloading support pressure from the ischial tuberosities and from the greater trochanters.

The Landi reference also fails to disclose the concentration of support pressure on the proximal thighbones to achieve a lever-like mechanical advantage from the weight of the distal legs acting in a fulcrum-like manner through the support area beneath the proximal thighs. The pending claims require aspects of this concept in the manner set forth in those claims.

These distinguishing features and aspects of the Landi reference are described more completely in paragraphs 21-25 of Mr. Hetzel's Declaration.

Because the Landi reference applies support pressure rather than offloading pressure, the Landi reference can not inherently anticipate the pending claims because those pending claims recite limitations which are opposite from the features which are specifically described by Landi.

The non-anticipatory aspects of Landi apply with respect to the pending independent claims 77, 85 and 93, as well as their dependent claims.

The Johnson reference uses structure and functionality which is essentially opposite from the structure and functionality recited in the pending claims. Johnson applies support pressure to the bony prominences of the pelvic anatomy, rather than offloading support pressure from the bony prominences and applying the support pressure to the broad tissue masses as recited in the pending claims. Specifically, Johnson applies support pressure to the posterior superior iliac spines which are adjacent to the lateral margins of the sacrum and to the greater trochanters and to the front portion or inferior ramus of the ischial tuberosities. The present claims specifically recite offloading pressure from these bony prominences. Accordingly, Johnson cannot anticipate the pending claims.

The distinguishing aspects of the Johnson reference are more specifically discussed in paragraphs 28-35 of Mr. Hetzel's Declaration.

Because the Johnson reference describes loading the bony prominences, a feature which is contrary to the claims of the present invention, the Johnson reference can not inherently anticipate the pending claims.

The non-anticipatory aspects of Johnson apply with respect to the pending independent claims 77, 85 and 93, as well as their dependent claims.

Lastly, the Lonardo reference discloses pressure relief for the lesser trochanters. The lesser trochanters are distinguishable from the greater trochanters, and it is the greater trochanters for which the present invention applies pressure relief. Indeed, the location of the pressure relief at the lesser trochanters in the Lonardo reference is at

approximately the location where a support area beneath the proximal thigh bones is located to apply support pressure in accordance with the present invention. The Lonardo reference fails to describe upward and forward support at the lateral posterior buttocks, which is another feature set forth in the pending claims.

The distinguishing aspects of the Lonardo reference are discussed in greater detail in paragraphs 38-43 of Mr. Hetzel's Declaration.

Because the Lonardo reference discloses pressure relief at the lesser trochanters in a manner which is contrary to the claimed support area at approximately the same location at the proximal thigh bones, the Lonardo reference can not inherently anticipate the pending claims.

The non-anticipatory aspects of Lonardo apply with respect to the pending independent claims 77, 85 and 93, as well as their dependent claims.

For the reasons set forth above, none of the Matsler, Landi, Johnson or Lonardo references anticipate the pending claims. Accordingly it is respectfully requested that the anticipation rejections be withdrawn and that the pending claims be allowed.

If the pending claims are not allowed for some reason involving giving no patentable weight to any limitations within the claims, and if the Examiner believes that there is controlling law other than that which has previously been cited in the prosecution of this application, it is respectfully requested that the Examiner provide a citation to such authority. In addition, if the Examiner considers any of the cited references to have a use or a possibility of use in some manner that is not explicitly described and that use forms the basis for a rejection of the pending claims, it is respectfully requested that the Examiner explain such use or possibility of use to enable the Applicant to respond.

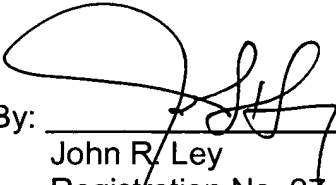
The present invention is a significant and unanticipated advancement in the prior art of seating. The significance of the advancement is referred to in the attached declarations of Dana Polonsky and David Harding, as well as Mr. Hetzel.

Conclusion

For the reasons set forth above, it is believed that all pending claims are in condition for allowance. Allowance is respectfully requested. The Examiner is encouraged to contact the undersigned by telephone to resolve any further issues that might inhibit the immediate allowance of the application.

Respectfully submitted,

Date: 10/25/06

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